

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL CASE NO. 3:06cr085

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
THOMAS McCOY RICHARDSON, JR.,)
)
 Defendant.)

)

ORDER

THIS MATTER is before the Court *sua sponte* to direct the parties to file supplemental briefs in this matter.

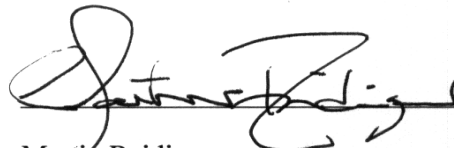
In his Objections to the Presentence Report, the Defendant has objected to the application of the statutory enhancements set forth in 18 U.S.C. §2252A(b) on the grounds that the record of his conviction does not establish that the Defendant's prior conviction for assault and battery of a high and aggravated nature and/or indecent exposure relates to sexually abusive conduct involving a minor. [Doc. 52]. It has come to the Court's attention, however, that in the course of disciplinary proceedings before the Supreme Court of South Carolina, the Defendant fully admitted certain factual allegations related to his convictions for assault and battery of a

high and aggravated nature and indecent exposure. See In re Richardson, 328 S.C. 161, 492 S.E.2d 788 (1997).

Accordingly, **IT IS, THEREFORE, ORDERED** that the parties are directed to file supplemental briefs on or before **December 10, 2008** addressing the following issues: (1) whether the Supreme Court of South Carolina's decision in In re Richardson may be considered a "comparable judicial record" of the factual basis for the Defendant's guilty plea to the charges of assault and battery of a high and aggravated nature and indecent exposure, within the meaning of Shepard v. United States, 544 U.S. 13, 26, 125 S.Ct. 1254, 161 L.Ed.2d 205 (2005); and (2) whether the factual admissions made by the Defendant during these disciplinary proceedings establish that one or more of the offenses for which he was convicted was "relat[ed] to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor" within the meaning of 18 U.S.C. §2252A(b). Any supplemental briefs that are filed shall be no more than ten (10) pages in length.

IT IS SO ORDERED.

Signed: December 3, 2008


Martin Reidinger
United States District Judge

